

Message Text

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PAGE 01 USUN N 05984 150430Z

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ACTION ACDA-10

INFO OCT-01 AF-06 ARA-10 EA-09 EUR-12 NEA-10 IO-10 ISO-00

ERDA-07 CIAE-00 DODE-00 PM-04 H-02 INR-07 L-03

NASA-02 NSAE-00 NSC-05 OIC-02 SP-02 PA-02 PRS-01

OES-05 SS-15 USIA-15 SAJ-01 FEA-01 CEQ-01 DOTE-00

EPA-04 HEW-06 HUD-02 INT-05 NSF-02 TRSE-00 /162 W
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R 150254Z NOV 75

FM USMISSION USUN NY

TO SECSTATE WASHDC 4027

INFO AMEMBASSY MOSCOW

AMEMBASSY STOCKHOLM

USMISSION GENEVA

UNCLAS USUN 5984

FOR ACDA AND IO

E.O. 11652: N/A

TAGS: PARM, UN

SUBJ: UNGA DISARMAMENT: SWEDISH CRITIQUE OF US-SOVIET DRAFT
ENVIRONMENTAL MODIFICATION CONVENTION

1. THORSSON (SWEDEN) DEVOTED MUCH OF HER NOVEMBER 14
FIRST COMMITTEE STATEMENT TO THE IDENTICAL U.S. AND
SOVIET DRAFT CONVENTIONS ON ENVIRONMENTAL MODIFICATION.
FOLLOWING IS EXCERPT CONTAINING SWEDISH CRITIQUE OF
DRAFTS' SCOPE AND COMPLIANCE PROVISIONS. FULL TEXT POUCHED
ACDA/IR (EINHORN).

2. BEGIN TEXT:

...THE CONVENTION IN FACT DOES NOT PRESCRIBE ANY FORM
OF DISARMAMENT. IT DOES PROHIBIT CERTAIN USE. BUT IS
DOES NOT ENVISAGE THE ELIMINATION FROM THE ARSENALS OF
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PAGE 02 USUN N 05984 150430Z

STATES OF THE TECHNIQUE, OR RATHER DEVICES, NECESSARY TO

CARRY OUT THE TECHNIQUE. NEITHER DOES IT PREVENT EXPERIMENTS WITH SUCH TECHNIQUES. THE REASONS FOR THIS ARE PERHAPS TO BE FOUND IN THE THIN BORDERLINE BETWEEN PEACEFUL AND HOSTILE USE, CONSISTING ONLY IN A PRONOUNCED OR SELF-EVIDENT INTENT BEHIND THE ACTION. FURTHER, THE BAN DOES NOT INCLUDE ALL MILITARY OR ANY OTHER HOSTILE USE OF ENVIRONMENTAL MODIFICATION TECHNIQUES, ACCORDING TO ARTICLE I OF THE DRAFT IT WOULD ONLY APPLY TO THOSE WHICH HAVE WIDE-SPREAD, LONG-LASTING OR SEVERE EFFECTS, WHEN USED AS THE MEANS OF DESTRUCTION, DAMAGE OR INJURY TO ANOTHER STATE PARTY.

THE EXPRESSION "MILITARY OR ANY OTHER HOSTILE USE" USED IN THE SAME ARTICLE DOES NOT SEEM ENTIRELY CLEAR TO MY DELEGATION. ALL MILITARY USES ARE NOT NECESSARILY HOSTILE - MANOUVRES ARE OF COURSE MILITARY IN THEIR NATURE BUT IN MOST CASES NOT HOSTILE. IN ORDER TO AVOID SUCH A CONTRADICTORY LANGUAGE AND TO MAKE THE SCOPE OF THE PROHIBITION AS WIDE AS POSSIBLE, ONE SHOULD SETTLE FOR THE TERM "HOSTILE USE".

FURTHERMORE ONLY SUCH USE WHICH HAVE "WIDESPREAD, LONG-LASTING OR SEVERE EFFECTS" WOULD BE PROHIBITED. SINCE APPARENTLY THE FULFILLMENT OF ONE OF THESE CRITERIA IS ENOUGH TO BRAND THE TECHNIQUE AS ILLEGAL, THE SCOPE OF THIS PROVISION SEEMS BROADER THAN THAT OF THE ARTICLES ADOPTED AT THE CONFERENCE ON THE INTERNATIONAL LAW IN ARMED CONFLICTS, WHERE ALL THREE CRITERIA MUST BE PRESENT. HOWEVER, NEITHER OF THESE CRITERIA HAS AS YET BEEN DEFINED, PERHAPS BECAUSE OF THE DIFICULTY TO ARRIVE AT A PRECISE AND CLEAR-CUT DEFINITION. THE DRAFTERS OF THIS CONVENTION HAVE, THROUGH THE ENUMERATION OF EXAMPLES IN ARTICLE II, INTENDED TO GIVE US AN IDEA OF WHAT IS PROHIBITED. EVEN WHEN ACCOUNT IS TAKEN OF THE FAST DEVELOPMENT OF TECHNOLOGY THAT LIST IN THE VIEW OF MY DELEGATION, HOWEVER, CONTAINS EXAMPLES THAT SEEM TO APPROACH SCIENCE FICTION. IN OUR VIEW SUCH A LIST OF EXAMPLES SEEM TO BE SUPERFLUOUS AS IT WOULD HAVE NO LEGAL EFFECT. MOREOVER, SUCH EXAMPLES COULD FOCUS ATTENTION ON METHODS FOR ENVIRONMENTAL MODIFICATION FOR

UNCLASSIFIED

PAGE 03 USUN N 05984 150430Z

HOSTILE PURPOSES WHICH MIGHT PROVE TO BE INSIGNIFICANT IN THE FUTURE AND WHICH MIGHT DIRECT ATTENTION FROM SERIOUS DEVELOPMENTS IN OTHER FIELDS.

ONE OF THE BASIC PRINCIPLES IN INTERNATIONAL RELATIONSHIPS IS TO REFRAIN NOT ONLY FROM THE USE BUT ALSO FROM THE THREAT OF USE OF FORCE. IN THE CONTEXT OF ENVIRONMENTAL WARFARE, IS NOT THE THREAT OF USE OF AN

ENVIRONMENTAL MODIFICATION TECHNIQUE FOR REASONS OF COERCION MORE LIKELY TO OCCUR THAN THE ACTUAL USE ITSELF? THUS, IT IS IMPORTANT THAT ARTICLE I SHOULD PROHIBIT NOT ONLY THE USE BUT ALSO THE THREAT OF USE.

FOR THE SAKE OF CLARITY LET ME SUM UP MY COMMENTS ON WHAT THE SCOPE OF THE PROHIBITION OUGHT TO INCLUDE:

APART FROM THE USE IT SHOULD COVER THE THREAT OF USE AND NOT ONLY THE INTENTIONAL USE BUT ANY USE WHICH MAY BE EXPECTED TO CAUSE WIDESPREAD, LONG-LASTING OR SEVERE EFFECTS. IT IS THE HOSTILE USE THAT OUGHT TO BE PROHIBITED. THE PRESENT WORDING "MILITARY OR ANY OTHER HOSTILE USE" IS CONFUSING AND CONTRADICTORY. THE EXAMPLES GIVEN ON PROHIBITED USE ARE NOT APPROPRIATE. AS I HAVE SAID THERE IS NO NEED FOR SUCH EXAMPLES, BUT IF IT IS THE GENERAL OPINION THAT EXAMPLES ARE NECESSARY, EXAMPLES OF A LESS FANCIFUL CHARACTER MUST BE CHOSEN.

TURNING NOW TO ARTICLE III, IT WOULD PRESCRIBE THAT THE CONVENTION WOULD NOT BE APPLICABLE TO THE PEACEFUL USE OF MODIFICATION TECHNIQUES. AS I HAVE ALREADY EMPHASIZED IT IS OF GREAT IMPORTANCE THAT EXISTING BASIC LEGAL NORMS WITH RESPECT TO THE PEACEFUL USE, ARE DEVELOPED INTO INTERNATIONAL REGULATIONS. THE PRESENT WORDING OF ARTICLE III WHICH STATES THAT "THE PROVISIONS OF THIS CONVENTION SHALL NOT HINDER THE USE OF ENVIRONMENTAL MODIFICATION TECHNIQUES FOR PEACEFUL PURPOSES" COULD BE MISINTERPRETED IN THE SENSE THAT EVERY APPLICATION OF THIS TECHNIQUE IS FREE AND PERMISSIBLE AS LONG AS NO HOSTILE PURPOSE IS INVOLVED. SUCH AN INTERPRETATION IS, AS WE KNOW, WRONG. I CANNOT SEE THE NEED FOR UNCLASSIFIED

UNCLASSIFIED

PAGE 04 USUN N 05984 150430Z

AN ARTICLE III SINCE ARTICLE I LIMITS THE SCOPE TO THE HOSTILE USE. IF THERE IS A NEED TO REEMPHASIZE THE NON-APPLICABILITY TO PEACEFUL USES, THE ARTICLE SHOULD AT LEAST BE REPHRASED TO READ: "THE PROVISIONS OF THIS CONVENTION DO NOT APPLY TO ETC..."

AS REGARDS THE PROVISIONS FOR ENSURING COMPLIANCE, CONTAINED IN ARTICLE V, THE SUGGESTED PROCEDURE FOLLOWS IN ALMOST IDENTICAL TERMS THE PROCEDURE OF THE BACTERIOLOGICAL (BIOLOGICAL) WEAPONS CONVENTION. ALREADY IN THE NEGOTIATION OF THIS CONVENTION IN 1971, THE SWEDISH DELEGATION, AS WELL AS OTHER DELEGATIONS, EXPRESSED CONCERN ABOUT THE PRESCRIBED COMPLAINT PROCEDURE IN THE SECURITY COUNCIL. THE SAME CONCERN WAS AGAIN EXPRESSED IN MY STATEMENT LAST YEAR WITH RESPECT TO THE SOVIET

PROPOSAL ON THIS TOPIC. REGRETTABLY I FIND IT NECESSARY
TO VOICE THIS CONCERN ONE AGAIN. IT IS IMPERATIVE THAT
IN THE CONCRETE NEGOTIATIONS TO FOLLOW
ANOTHER AND MORE ACCEPTABLE COMPLAIN PROCEDURE THAN THAT
FORESEEN IN ARTICLE V, PARAGRAPH 2 WILL HAVE TO BE FOUND.

WE ASSUME THAT OBLIGATIONS OF STATES UNDER THIS
CONVENTION ARE TO BE ENTERED INTO ON THE BASIS OF
EQUALITY, THAT IS ALL STATES PARTIES SHOULD ACCEPT
THE SAME OBLIGATIONS TO COOPERATE IN AN INVESTIGATION,
SHOULD A COMPLAINT OF VIOLATION BE LODGED.
THEREFORE, WE MUST BE CONVINCED THAT STATES
BOUND BY THE CONVENTION ARE TREATED ON AN EQUAL BASIS.
WE MUST BE REASSURED THAT THE PERMANENT MEMBERS OF THE
SECURITY COUNCIL IN THIS CONTEXT WILL NOT USE
THEIR RIGHT OF VETO IN A CASE OF COMPLAINT. IT IS MY
HOPE, MR. CHAIRMAN, THAT THE FUTURE DISCUSSIONS ON THIS
MATTER WILL CLARIFY THE POINTS I HAVE COMMENTED ON TODAY.
...END TEXT.
MOYNIHAN

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: DISARMAMENT, AGREEMENT DRAFT, ENVIRONMENT, TEXT
Control Number: n/a
Copy: SINGLE
Draft Date: 15 NOV 1975
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Authority: n/a
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 JAN 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1975USUNN05984
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D750398-0747
From: USUN NEW YORK
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1975/newtext/t19751140/aaaabjpi.tel
Line Count: 189
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION ACDA
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators: n/a
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: GolinoFR
Review Comment: n/a
Review Content Flags:
Review Date: 03 DEC 2003
Review Event:
Review Exemptions: n/a
Review History: RELEASED <03 DEC 2003 by ReddocGW>; APPROVED <14 JAN 2004 by GolinoFR>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
06 JUL 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: UNGA DISARMAMENT: SWEDISH CRITIQUE OF US-SOVIET DRAFT ENVIRONMENTAL MODIFICATION CONVENTION
TAGS: PARM, SZ, US, UR, UN
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 06 JUL 2006